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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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2162

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/385,489

Applicant(s)

SULLIVAN ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-94 have been examined.

***Drawings***

2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-17, 19-62, 64-82 and 84-94 are rejected under 35 U.S.C. 102(a) as being anticipated by Jones (U.S. 5,832,458).

As per claim 1, Jones teaches:

A method for an independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion (see column 11, lines 20-67);

storing the captured terms of the trade promotion in an independent system operator database (see column 11, lines 20-67 – column 12, lines 1-40);

collecting product POS data from, at least one in-store POS system of the retailer (see column 12, lines 11-40);

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filtering the product POS data to obtain promoted product POS data (see column 12, lines 10-40);

processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 10-40); and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see column 12, lines 30-40).

As per claim 2, Jones teaches:

The method of Claim 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the, independent system operator database to independently verify the terms of the trade promotion (see column 11, lines 20-67 – column 12, lines 1-40).

As per claim 3, Jones teaches:

The method of Claim 1, which further includes the steps of the independent system operator: enabling the retailer to change the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the trade promotion in the independent system operator database (see column 11, lines 20-67 – column 12, lines 1-40).

As per claim 4, Jones teaches:

The method of Claim 3, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent, system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see column 11, lines 20-67 – column 12, lines 1-40).

As per claim 5, Jones teaches:

The method of Claim 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of promoted products sold during the trade promotion (see column 12, lines 10-40).

As per claim 6, Jones teaches:

The method of Claim 5, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 10-40).

As per claim 7, Jones teaches;

The method of Claim 6, wherein the retailer and manufacturer use an internet to access the stored terms of the trade promotion in the independent system operator database, the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see column 6, lines 53-67).

As per claim 8, Jones teaches:

The method of Claim 1, wherein the step of storing the captured terms of the trade promotion includes storing the terms of the trade promotion in at least one predefined table in the independent system operator database (see column 10, lines 58-63).

As per claim 9, Jones teaches;

The method of Claim 8, wherein the step of storing the captured terms of the trade promotion includes creating a UPC list for the promoted products (see column 5, lines 52-64).

As per claim 10, Jones teaches:

The method of Claim 9, wherein the step of storing the captured terms of the trade promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer (see column 10, lines 19-30).

As per claim 11, Jones teaches:

The method of Claim 10, wherein the step of storing the captured terms of the trade promotion includes selecting additional products being promoted from the complete UPC code list (see columns 11 and 12).

As per claim 12, Jones teaches:

The method of Claim 1, wherein the retailer has a plurality of stores with in-store POS systems and the step of collecting the product POS data includes collecting product POS data from the plurality of stores and consolidating all of the collected product POS data (see column 6, lines 11-67).

As per claim 13, Jones teaches:

The method of Claim 12, wherein the step of filtering the product POS data includes the step of generating a table of UPC codes for products active in the trade promotion (see column 8, lines 43-67).

As per claim 14, Jones teaches:

The method of Claim 12, wherein the step of filtering the product POS data includes the step of comparing the product POS data to the table of UPC codes to obtain the promoted product POS data (see column 6, lines 27-52).

As per claim 15, Jones teaches:

The method of Claim 1, which further includes the step of the independent system operator verifying that the promoted product POS data is within acceptable tolerances (see column 5, lines 51-64).

As per claim 16, Jones teaches:

The method of Claim 15, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the same product for a period prior to the beginning of the trade promotion (see column 12, lines 10-40).

As per claim 17, Jones teaches:

The method of Claim 1, wherein processing the promoted product POS data in accordance with the stored terms of, the trade promotion in the independent system operator database includes creating at least one, settlement table in the independent system operator database which includes the number of promoted products sold by the

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retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion, and the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 10-40).

As per claim 19, Jones teaches:

The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator: sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer (see column 12, lines 10-40).

As per claim 20, Jones teaches:

The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer (see column 12, lines 10-40).

As per claim 21, Jones teaches:

The method of Claim 1, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see columns 11 and 12).

As per claim 22, Jones teaches:



The method of Claim 21, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see column 6, lines 27-52).

As per claim 23, Jones teaches:

A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture the terms of the trade promotion for promoted product (see column 12, lines 10-40);

means for the independent system operator to collect product POS data from at least one in-store POS system of the retailer (see column 12, lines 10-40);

means for the independent system operator to filter the product POS data to obtain promoted product POS data for the promoted product (see columns 11-12);

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the captured terms of the trade promotion (see column 12, lines 10-40); and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion (see column 12, lines 10-40).

As per claim 25, Jones teaches:

The system of Claim 24, wherein the filtering means includes means for the independent system operator to compare the product POS data to a list of UPC for the trade promotion to obtain the promoted product POS data (see column 8, lines 40-67).

As per claim 26, Jones teaches:

The system of Claim 24, wherein the filtering means includes means for comparing the product POS data to a list of UPC's for the promotion to obtain the promoted product POS data (see column 12, lines 10-40).

As per claim 27, Jones teaches:

The system of Claim 23, which further includes means for the independent system operator to report the promoted product POS data to the retailer and the manufacturer (see column 12, lines 10-40).

As per claim 28, Jones teaches:

The system of Claim 27, wherein the reporting means reports the promoted product POS data via the Internet (see column 6, lines 52-67).

As per claim 29, Jones teaches:

The system of Claim 23, wherein the determining means consolidates the promoted product POS data for a plurality of products for the manufacturer (see column 12, lines 10-40).

As per claim 30, Jones teaches:

A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store

with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions in an independent system operator database (see columns 11-12);

providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions (see column 11);

collecting the product POS data during the trade promotions from at least one in store POS system of the retailer (see column 12, lines 10-40);

filtering the product POS data to obtain promoted product POS data (see column 12, lines 10-40);

storing the promoted product POS data in the independent system operator database (see column 12, lines 10-40);

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion stored in the independent system operator database (see column 12, lines 10-40);

storing the amount of money the manufacturer owes the retailer in the independent system operator database (see column 12, lines 10-40);

providing the retailer and manufacturer access to the independent system operator database during the product promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion (see column 12, lines 10-40);  
and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer (see column 12, lines 10-40).

As per claim 31, Jones teaches:

The method of Claim 30, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see columns 11-12).

As per claim 32, Jones teaches:

The method of Claim 31, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see column 6, lines 27-52).

As per claim 33, Jones teaches:

A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of products to independently verify the terms of the trade promotions, said method comprising the steps of:

capturing the terms of the trade promotions in an independent system which operates independently from the retailer and the manufacturer (see columns 11-12);

storing the captured terms of the trade promotions in an electronic database of the independent system (see column 12, lines 1-40); and

enabling the retailer and the manufacturer to access the electronic database of the independent system to determine the stored terms of the trade promotions (see column 12, lines 1-40).

As per claim 34, Jones teaches:

The method of Claim 33, wherein the step of enabling the retailer and manufacturer to access the electronic database of the independent system to determine the terms of the trade promotions includes enabling the retailer and manufacturer to access the electronic database of the independent system through the internet (see column 6, lines 53-67).

As per claim 35, Jones teaches:

The method of Claim 34, which further includes the step of enabling the retailer to change the terms of the trade promotions stored in the electronic database of the independent system prior to the start of the trade promotions, capturing the changed terms of the trade promotions and storing the changed terms of the trade promotions in the electronic database of the independent system (see columns 11-12).

As per claim 36, Jones teaches:

The method of Claim 35, which further includes the step of enabling the retailer and the manufacturer to access the terms of the trade promotions stored in the electronic database of the independent system to independently verify the terms of the trade promotions and to determine if the retailer changed any of the terms of any of the trade promotions (see columns 11-12).

As per claim 37, Jones teaches:

A system for administering a trade promotion for a promoted product between a retailer and a manufacturer, said system comprising:

an independent system having a processor and an electronic database accessible by the processor which are adapted to capture and store the terms of the

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trade promotion for the promoted product, to collect promoted product POS data for the promoted product of the trade promotion from the retailer, to process the collected promoted product POS data in accordance with the stored terms of the trade promotion in the electronic database to determine an amount of money the manufacturer owes to the retailer for the trade promotion, and to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the trade promotion (see column 12, lines 1-40);

a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data for the promoted product from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the trade promotion to the independent system (see column 12, lines 1-40); and

a manufacturer system in communication with the independent system (see column 12, lines 1-40).

As per claim 38, Jones teaches:

The system of Claim 37, wherein the independent system is adapted provide the retailer system and the manufacturer system access to the independent system electronic database to independently verify the stored terms of the trade promotion, to determine the number of promoted products sold during the trade promotion and to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40).

As per claim 39, Jones teaches:

The system of Claim 38, wherein the independent system provides the manufacturer system and the retailer system access to the independent system through the internet (see column 6, lines 53-67).

As per claim 40, Jones teaches:

The system of Claim 37, wherein the independent system is adapted to generate a table of UPC codes that are active in the trade promotion and to transfer said table of UPC codes to the retailer system (see column 5, lines 51-64 and column 12, lines 1-40).

As per claim 41, Jones teaches:

The system of Claim 40, wherein the retailer system is adapted to collect product POS data for all of the products the retailer sells and to use the table of UPC codes to filter the product POS data to obtain promoted product POS data for the promoted product (see column 12, lines 1-40).

As per claim 42, Jones teaches:

The system of Claim 37, wherein the independent system is adapted to verify that the promoted product POS data for the promoted product is within acceptable tolerances for the promoted product (see column 12, lines 1-40).

As per claim 43, Jones teaches:

The system of Claim 37, wherein the independent system is adapted to consolidate all of the promoted product POS data for a plurality of promoted products for the manufacturer (see columns 11-12).

As per claim 44, Jones teaches:

The system of Claim 43, wherein the independent system is adapted to process the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see column 6, lines 26-67).

As per claim 45, Jones teaches:

The method of Claim 1, wherein the step of collecting product POS data from at least one in-store POS system of the retailer includes receiving product POS data from a retailer network after the retailer network receives the product POS data from the in-store POS system of at least one retailer store (see column 12, lines 1-40).

As per claim 46, Jones teaches:

The method of Claim 1, wherein the retailer has a plurality of retailer stores with in-store POS system, and wherein the step of collecting product POS data from at least one in-store POS system of the retailer includes receiving product POS data from a retailer network after the retailer network receives the product POS data from the in-store POS systems in said plurality of retailer stores (see column 6, lines 27-53).

As per claim 47, Jones teaches:

A method for an independent system operator to administer a trade promotion for a promoted, product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator: capturing terms of the trade promotion for the promoted product; storing the captured terms of the trade promotion in an independent system operator database; receiving promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer; processing the



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promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer, for the trade promotion; and facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see column 12, lines 1-40).

As per claim 48, Jones teaches:

The method of Claim 47, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see columns 11-12).

As per claim 49, Jones teaches:

The method of Claim 47, which further includes the step of the independent system operator: enabling the retailer to change the stored terms of the promotion prior to the start of the trade, promotion, capturing the changed terms of the trade promotion and storing the changed terms of the trade promotion in the independent system operator database (see columns 11 and 12).

As per claim 50, Jones teaches:

The method of Claim 49, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see columns 11 and 12).

As per claim 51, Jones teaches:

The method of Claim 47, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of the promoted products sold during the trade promotion (see column 12, lines 1-40).

As per claim 52, Jones teaches:

The method of Claim 51, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40).

As per claim 53, Jones teaches:

The method of Claim 52, wherein the retailer and manufacturer use an internet to access the stored terms of the trade promotion in the independent system operator database, the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40 and column 6, lines 53-67).

As per claim 54, Jones teaches:

The method of Claim 47, wherein the step of storing the captured terms of the trade promotion includes storing the terms of the trade promotion in at least one predefined table in the independent system operator database (see column 12, lines 1-40).

As per claim 55, Jones teaches:

The method of Claim 54, wherein the step of storing the captured terms of the trade promotion includes creating a UPC list for the promoted products (see column 5, lines 50-64).

As per claim 56, Jones teaches:

The method of Claim 55, wherein the step of storing the captured terms of the trade promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer (see column 6, lines 26-52 and column 12, lines 1-40).

As per claim 57, Jones teaches:

The method of Claim 56, wherein the step of storing the captured terms of the trade promotion includes selecting additional products being promoted from the complete UPC code list (see column 6, lines 26-52 and column 12, lines 1-40).

As per claim 58, Jones teaches:

The method of Claim 47, wherein the retailer has a plurality of stores with in-store POS systems and the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from the plurality of stores (see column 12, lines 1-40).

As per claim 59, Jones teaches:

The method of Claim 58, wherein the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from a retailer network after the retailer network receives the promoted product POS data from the plurality of stores (see column 12, lines 1-40).

As per claim 60, Jones teaches:

The method of Claim 47, which further includes the step of the independent system operator verifying that the promoted product POS data is within acceptable tolerances (see column 12, lines 1-40).

As per claim 61, Jones teaches:

The method of Claim 60, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the promoted product for a period prior to the beginning of the trade promotion (see column 12, lines 1-40).

As per claim 62, Jones teaches:

The method of Claim 60, wherein processing the promoted product POS data in accordance with the terms of the trade promotion includes creating at least one settlement table in the independent system operator database which includes the number of promoted products sold by the retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion, and the amount of money the manufacturer owes to the retailer for the trade promotion (see column 5, lines 52-64 and column 12, lines 1-40).

As per claim 64, Jones teaches:

The method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator: sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer (see column 12, lines 1-40).

As per claim 65, Jones teaches:

The method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer (see column 12, lines 1-40).

As per claim 66, Jones teaches:

The method of Claim 47, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see columns 11-12).

As per claim 67, Jones teaches:

The method of Claim 66, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see columns 11-12).

As per claim 68, Jones teaches:

A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture terms of the trade promotion for the promoted product (see column 12, lines 1-40);

means for the independent system operator to collect promoted product POS data for the promoted product from at least one in-store POS system of the retailer (see column 12, lines 1-40);

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion (see column 12, lines 1-40); and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion (see column 12, lines 1-40).

As per claim 69, Jones teaches:

The system of Claim 68, wherein the retailer has a plurality of stores with in-store POS systems and a retailer network which collects product POS data from the plurality of in-store POS systems in the plurality of stores and filters the consolidated product POS data to obtain consolidated promoted product POS data, and wherein the collecting means is adapted to receive the consolidated promoted product POS data from the retailer network (see column 12, lines 1-40).

As per claim 70, Jones teaches:

The system of Claim 68, where the determining means includes means for verifying that the promoted product POS data is within acceptable tolerances for the promoted product (see column 12, lines 1-40).

As per claim 71, Jones teaches:

The system of Claim 68, which further includes means for the independent system operator to report the promoted product POS data to the retailer and the manufacturer (see column 12, lines 1-40).

As per claim 72, Jones teaches:

The system of Claim 68, wherein the reporting means reports the promoted product POS data via an internet (see column 6, lines 53-67).

As per claim 73, Jones teaches:

The system of Claim 68, wherein the determining means consolidates the promoted product POS data for a plurality of trade promotions, for the manufacturer and the paying means aggregates payments owed to the retailer by the manufacturer for said plurality of trade promotions (see column 12, lines 1-40).

As per claim 74, Jones teaches:

A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions in an independent system operator database (see columns 11-12);

providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions (see columns 11-12);

receiving promoted product POS data during the trade promotions from at least one in-store POS system of the retailer (see column 12, lines 1-40);

storing the promoted product POS data in the independent system operator database (see columns 11-12);

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion (see column 12, lines 1-40);

storing the amount of money the manufacturer owes the retailer in the independent system operator database (see column 12, lines 1-40);

providing the retailer and manufacturer access to the independent system operator database during the product promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion (see column 12, lines 1-40); and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer (see column 12, lines 1-40).

As per claim 75, Jones teaches:

The method of Claim 74, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see columns 11-12).

As per claim 76, Jones teaches:

The method of Claim 75, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see columns 11-12).



As per claim 77, Jones teaches:

A method for independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps the independent system operator:

capturing terms of the trade promotion including an identification of the retailer, an identification of the manufacturer, a trade promotion type, a UPC Code for the promoted product, a payment value for the promoted product, and link codes for associated discounts if the trade promotion is an electronic discount trade promotion (see column 5, lines 51-64 and column 12, lines 1-40);

storing said captured terms of the trade promotion in an independent system operator database (see columns 11-12);

receiving promoted product POS data for said trade promotion from at least one in-store POS system of the retailer (see column 12, lines 1-40);

processing the promoted product POS data in accordance with the terms of the trade promotion stored in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40); and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see column 12, lines 1-40).

As per claim 78, Jones teaches:

The method of Claim 77, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the

trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see columns 11-12).

As per claim 79, Jones teaches:

The method of Claim 77, which further includes the step of the independent system operator: enabling the retailer to change at least one of the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the trade promotion in the independent system operator database (see column 12, lines 1-40).

As per claim 80, Jones teaches:

The method of Claim 79, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed any of the terms of the trade promotion (see columns 11-12).

As per claim 81, Jones teaches:

The method of Claim 77, which further includes the step of consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see column 11-12).

As per claim 82, Jones teaches:

The method of Claim 77, which further includes the step of processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see columns 11-12).

As per claim 84, Jones teaches:

A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of promoted products to independently verify terms of the trade promotions for the promoted products using an independent system, said method comprising the steps of:

capturing the terms of the trade promotions for the promoted products in an independent system which operates independently of the control of the retailer and the manufacturer, including retailer identification, manufacturer identification, trade promotion type, UPC Codes for the promoted products, payment values for the promoted products, and link codes for associated discounts if any of the trade promotions are electronic discount trade promotions (see column 5, lines 50-67 and columns 11-12);

storing the captured terms of the trade promotions in an independent system database (see columns 11-12); and

enabling the retailer and the manufacturer to access the independent system database to determine the stored terms of the trade promotions (see columns 11-12).

As per claim 85, Jones teaches:

The method of Claim 84, wherein the step of the independent system enabling the retailer and manufacturer to access the database to determine the terms of the trade promotions includes enabling the retailer and manufacturer to access the independent system database through an internet (see column 6, lines 53-67 and columns 11-12).

As per claim 86, Jones teaches:

The method of Claim 84, which further includes the step of the independent system: enabling the retailer to change at least one of the captured terms of the trade promotions prior to the start of the trade promotions, capturing the changed terms of the trade promotions and storing the changed terms of the trade promotions in the independent system database (see column 12, lines 1-40).

As per claim 87, Jones teaches:

The method of Claim 86, which further includes the step of the independent system enabling the retailer and the manufacturer to access each of the terms of the trade promotions stored in the independent system database to independently verify each of the terms of the trade promotions and to determine if the retailer changed any of the terms of the trade promotions (see columns 11-12).

As per claim 88, Jones teaches:

A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a retailer having a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products (see columns 11-12); storing the captured terms of each of the trade promotions in at least one independent system database (see column 12, lines 1-40);

receiving consolidated promoted product POS data including promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailer (see column 12, lines 1-40);

processing the promoted product POS data the promoted products in accordance with the stored terms of the trade promotions in the independent system database for said promoted products to determine amounts of money the manufacturers owe to the retailer for the trade promotions (see column 12, lines 1-40); and

facilitating the manufacturers' payments of the amounts of money owed to retailer for the trade promotions (see column 12, lines 1-40).

As per claim 89, Jones teaches:

A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a plurality of retailers where each retailer has a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products (see columns 11-12);

storing the terms of each of the trade promotions in at least one independent system database (see columns 11-12);

receiving consolidated promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailers (see columns 11-12);

processing the promoted product POS data for each of the promoted products in accordance with the stored terms of the trade promotions in the independent system

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database for said promoted products to determine amounts of money the manufacturers owe to the retailers for the trade promotions (see column 12, lines 1-40); and

facilitating the manufacturers payments of the amounts of money owed to the retailers for the trade promotions (see column 12, lines 1-40).

As per claim 90, Jones teaches:

A method for an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion for the promoted product (see columns 11-12);

storing the captured terms of the trade promotion in an independent system operator database (see columns 11-12);

enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see columns 11-12);

enabling the retailer to change at least one of the stored terms of the promotion prior to the start of the trade promotion, capturing any changed terms of the trade promotion and storing any changed terms of the trade promotion in the independent system operator database (see columns 11-12);

enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify

the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see columns 11-12);

receiving promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer (see column 12, lines 1-40);

processing the promoted product POS-data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40);

verifying that the promoted product POS data is within acceptable tolerances (see column 12, lines 1-40);

enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see column 12, lines 1-40); and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see column 12, lines 1-40).

As per claim 91, Jones teaches:

The method of Claim 90, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of the promoted products sold during the trade promotion (see column 12, lines 1-40).

As per claim 92, Jones teaches:

The method of Claim 90, wherein the retailer has a plurality of stores with in-store POS systems and the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from the plurality of stores (see column 6, lines 27-52 and columns 11-12).

As per claim 93, Jones teaches:

The method of Claim 92, wherein the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from a retailer network after the retailer network receives the promoted product POS data from the plurality of stores (see column 6, lines 27-52 and columns 11-12).

As per claim 94, Jones teaches:

The method of Claim 90, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the promoted product for a period prior to the beginning of the trade promotion (see column 12, lines 1-40).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 63 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. 5,832,458)



As per claim 18, Jones does not expressly teach, the method of claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes paying the retailer using an electronic fund transfer. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that if Jones facilitates the payment to retailers, using an electronic fund transfer would be an obvious feature to add.

As per claim 63, Jones does not expressly teach, the method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator paying the retailer using an electronic funds transfer. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that if Jones facilitates the payment to retailers, using an electronic fund transfer would be an obvious feature to add.

As per claim 83, Jones does not expressly teach, the method of Claim 77, wherein the step of capturing terms of the trade promotion further includes capturing special payment terms. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that special payment terms would be another trade promotion offer by retailers, the same as offering price reduction or free goods and this feature would be added to Jones.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Sloane teaches a system and method for influencing and potentially altering a consumer's purchase decisions at the point of sale in a retail store using a portable scanner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 6:30-3:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

D.L.

Daniel Lastra

January 29, 2002

  
ERIC W. STAMBER  
PRIMARY EXAMINER